

United States District Court  
Southern District of New York

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Alpha Capital Anstalt,

Plaintiff,

19 CV 6199 (PGG)

v.

Notice of Motion

Shiftpixy, Inc.,

Defendant.  
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Please take notice that upon the annexed Affirmation of Nicola Feuerstein affirmed under penalties of perjury under the laws of the United States of America on September 9, 2019, with Exhibits attached thereto, the undersigned will move this Court for an order granting summary judgment:

- i) directing Defendant Shiftpixy, Inc. (“SFTY”) to deliver to Alpha Capital immediately one million shares of its common stock to which Alpha Capital is entitled based upon SFTY’s failure to honor Alpha Capital’s June 20, 2019 conversion request under the terms of SFTY’s Senior Convertible Note which Alpha Capital acquired in March, 2019 (the “Note”); and
- ii) in the event the Court is unwilling to compel SFTY to deliver stock, as Alpha Capital respectfully submits it should, then, in the alternative, awarding Alpha Capital damages in the amount of \$500,000, the value of the stock which SFTY should have delivered on June 24, 2019, but did not, in response to its conversion request, plus interest; and

- iii) ordering SFTY to honor all future conversion requests duly submitted in accordance  
with the terms of the Note; and
- iv) dismissing SFTY's counterclaim.

Dated: New York, New York  
September 10, 2019

Law Offices of Kenneth A. Zitter

By 

Kenneth A. Zitter, Esq.

Attorneys for Plaintiff

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